



In the Matter of:

**MICHAEL A. PATEY,**

**ARB CASE NO. 96-174**

**Complainant,**

**(ALJ CASE NO. 96-STA-20)**

**v.**

**DATE: November 12, 1996**

**SINCLAIR OIL CORPORATION,  
d/b/a SINCLAIR TRUCKING  
COMPANY,**

**Respondent.**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD<sup>1</sup>

### **FINAL DECISION AND ORDER**

The Administrative law Judge (ALJ) submitted a Recommended Decision and Order (R. D. and O.) in this case arising under the employee protection provision of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C.A. § 31105 (West 1994), finding that Respondent Sinclair Oil Corporation did not discriminate against Complainant Michael Patey when it discharged him from his job as a fuel oil delivery truck driver. Patey refused to deliver fuel oil to a railroad, where his duties required refueling of idling locomotives, because he believed it was unsafe, but the ALJ found Patey's concerns were unreasonable under the circumstances. The record has been reviewed and we find there is substantial evidence in the record to support the ALJ's finding that Sinclair did not violate the STAA when it discharged Patey. Sinclair fully responded to each of Patey's concerns, R. D. and O. at 4, so that his refusal to drive was not protected under 49 U.S.C.A. § 31105(a)(2).

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<sup>1</sup> On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under this statute to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996). Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order, and regulations under which the Administrative Review Board now issues final agency decisions. Final procedural revisions to the regulations implementing this reorganization were also promulgated on that date. 61 Fed. Reg. 19982.

We adopt the ALJ's R. D. and O. (attached) and this complaint is **DISMISSED**.

**SO ORDERED.**

**DAVID A. O'BRIEN**

Chair

**KARL J. SANDSTROM**

Member

**JOYCE D. MILLER**

Alternate Member